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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTHONY JAMES CROSS,

Defendant.

Case No. CR-23-101-BLG-SPW

SENTENCING MEMORANDUM

COMES NOW Defendant, ANTHONY JAMES CROSS by and through Defendant's counsel of record, the FEDERAL DEFENDERS OF MONTANA and GILLIAN E. GOSCH, Assistant Federal Defender, and offers this Sentencing Memorandum to this Honorable Court for Mr. Cross's sentencing hearing scheduled for May 1, 2024, at 10:30 a.m.

INTRODUCTION

On September 14, 2023, Anthony James Cross was named in a two count Indictment charging him in Count I with Threats to Injure and Murder a United States Senator in violation of 18 U.S.C. § 115 (a)(1)(B) and (b)(4) and in Count II with Threats against the President in violation of 18 U.S.C. § 871(a). Cross made his initial appearance on September 29, 2023, and changed his plea to Count I of the Indictment on January 5, 2024. He has been detained pending disposition.

ADVISORY GUIDELINE RANGE

Pursuant to the presentence report Cross's total offense level is 17 and his criminal history category is I. Therefore, his advisory guideline range is 24-30 months. There is a plea agreement in this case and Cross will not have accrued any credit at the time of sentencing as he is appearing via a writ.

DISCUSSION-3553

A. The Offense

The offense conduct is sufficiently set forth in paragraphs 7-23 of the presentence report.

B. History and Characteristics of Anthony James Cross

Tony is currently 30 years of age and has lived in Billings since the age of 12. He was raised by his mother with whom he has a close relationship. He has never really had a relationship with his biological father as he was incarcerated shortly

after Tony was born. Tony, is however close with his mother and reported that he thought his childhood was “pretty good.” Tony is a high school graduate and briefly attended Montana State University-Billings to study computer systems technology until his abuse of alcohol forced him to quit attending classes. In 2012, Tony was involved in an accident that caused the death of another individual. Tony has never recovered emotionally from the accident, and it is at this point in Tony’s life that we see a shift. After the accident, Tony’s drinking started to increase, and his mental health significantly declined. He was having auditory and visual hallucinations, some of which involve his sister who passed away in 2006. Tony has been diagnosed with depression, anxiety, and PTSD. He has been treated off and on for these diagnosis since 2013 and has twice attempted suicide. He has been admitted to the Billings Psychiatric Center multiple times. He still struggles with suicidal thoughts but has been actively communicating these thoughts to those in a position to assist him. Tony’s substance abuse has caused significant problems legally as well as interfering with his schooling and work performance. While he has tried other substances, alcohol appears to be his drug of choice and he considers himself an alcoholic. As previously stated, Tony’s work history is spotty but as noted by Dr. Woolston’s evaluation, Tony would benefit from additional education as Dr. Woolston noted that he appears to be average to above average in intelligence and

he further opined that having gainful employment would offer Tony “structure, meaning and self-respect.”

C. Seriousness of the Offense, Respect for the Law and Just Punishment

Nothing that Tony can do here today can change what he did on April 17, 2023. In a drunken state, Tony made multiple phone calls to Senator Tester’s offices and threatened bodily harm. These statements are certainly cause for alarm and would be upsetting and frightening to anyone who listened to the messages. The conduct in this case is serious, but Tony is an individual who can be rehabilitated. With the right intervention to treat his mental health and substance abuse issues, Tony can be a productive and law-abiding member of the community. Tony is requesting that the court recommend him to attend the RDAP program as well as require him to attend mental health counseling and anger management classes. Vocational training would also benefit Tony as he has expressed interest in welding. Considering the 3553 (a) factors, a sentence within the advisory guideline range to run concurrently with his state matter in DC-2023-525 is sufficient but not greater, than necessary to accomplish the goals of sentencing.

RESPECTFULLY SUBMITTED this 11th day of April, 2024.

/s/ Gillian E. Gosch

GILLIAN E. GOSCH

Federal Defenders of Montana

Counsel for Defendant

CERTIFICATE OF SERVICE
L.R. 5.2(b)

I hereby certify that on April 11, 2024, a copy of the foregoing document was served on the following persons by the following means:

<u>1, 2</u>	CM-ECF
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<u> </u>	E-Mail

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/s/ Gillian E. Gosch

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